

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Broadcast Localism)	MB Docket No. 04-233
)	
To: The Commission		

COMMENTS OF GREAT EASTERN RADIO, LLC

Great Eastern Radio, LLC (“Great Eastern Radio”),¹ by counsel, responds to the Notice of Proposed Rule Making (“NPRM”) issued in connection with the Federal Communications Commission (“FCC” or “Commission”) January 24, 2008 Report on Localism.² Great Eastern Radio is concerned that certain proposals in the NPRM will, in fact, undermine the Commission’s broadcast localism goals by forcing broadcasters – particularly in small to medium sized markets – to divert limited station resources to absorb undue regulatory costs and burdens rather than focus on providing community-responsive public affairs, news and other local programming. The Commission should not resuscitate -- directly or indirectly -- its failed “localism” policies of the past, which the agency rightly eliminated long ago. In fact, widespread marketplace incentives exist for broadcasters to maximize local service as a means for competitive viability amid dramatic changes in our media landscape. For these reasons, Great Eastern Radio urges the Commission not to adopt certain rule proposals, as described below.

¹ Great Eastern Radio is the licensee of WTPL(FM), Hillsboro, New Hampshire, Facility Id. No. 54910; W296BK, Concord, New Hampshire, Facility Id. No. 139440; WMXR(FM), Woodstock, Vermont, Facility Id. No. 57002; WTSM(FM), Swanzey, New Hampshire, Facility Id. No. 4910; W232AP, White River Junction, Vermont, Facility Id. No. 56990; WXXK(FM), Lebanon, New Hampshire, Facility Id. No. 54790; WGXL(FM), Hanover, New Hampshire, Facility Id. No. 56621; WTSL(AM), Hanover, New Hampshire, Facility Id. No. 12083; WVRR(FM), Westminster, Vermont, Facility Id. No. 46334; and W265AT, Springfield, Vermont, Facility Id. No. 46339.

² *Broadcast Localism*, Report on Broadcast Localism and Notice of Proposed Rule Making, MB Docket No. 07-218 (rel. Jan. 24, 2008). The Commission extended the deadline for filing comments in this proceeding until April 28, 2008. *See* Public Notice, DA 08-515 (rel. March 6, 2006). Thus, these comments are timely filed.

Background

Great Eastern Radio is the licensee of seven radio stations in small to medium sized markets. Jeffrey D. Shapiro and Courtney S. Galluzzo, the principals of Great Eastern Radio, together have more than half a century of experience owning and operating radio broadcast stations in unrated small to medium sized markets in Massachusetts, New Hampshire, New York, Virginia and Vermont. Mr. Shapiro purchased his first radio stations, WHDQ-FM and WTSV-AM, Claremont, New Hampshire in 1984, with funds raised from family and friends when he was just 23 years old. He has owned and operated radio stations in small to medium sized markets for almost a quarter century, and has experienced first hand the challenges with running successful broadcast stations in good and bad economic times. Since Mr. Shapiro began his career in broadcasting in 1984, he has seen radio stations progress from spinning vinyl discs and splicing tape to playing compact discs, automating traffic and streaming content over the web.

The one constant during this quarter century of experience in the broadcast industry is the importance of local content. Mr. Shapiro, and Great Eastern Radio, remain committed to providing local programming to each radio station's community of license. Great Eastern Radio understands the importance of providing local programming to their communities.

Great Eastern Radio's stations in New Hampshire and Vermont run high school sports on their stations on a regular basis, have live and local morning shows, feature political and community guests on a regular basis and are heavily involved in community fund raising efforts. As one example, Great Eastern Radio's WXXK-FM in Lebanon has raised over \$1 million for David's House, a home away from home for kids being treated for cancer at Dartmouth Hitchcock Medical Center in Hanover/Lebanon New Hampshire. In addition, the station has

local residents doing call in shows on the radio stations on a regular basis such as local golf pro Rich Parker who does a show on high school sports standouts in our area, along with Bob Woodward, a local resident who is a retired Red Sox. Great Eastern Radio's WTPL-FM in Hillsboro, New Hampshire is the only local FM station in Southern New Hampshire which features live and local talk/news programming for a majority of its broadcast day. Using technology to automate certain less listened to day parts such as the evening and overnight, has allowed Great Eastern Radio's WTPL to invest heavily in locally produced news and talk content for the majority of the 6am—7pm day part. The Governor of New Hampshire, John Lynch, stops by WTPL-FM on a weekly basis, often unannounced, to say hello to listeners and answer questions regarding state issues. Great Eastern Radio has stations that truly are local radio and has proven it can work within the confines of the current regulatory parameters established by the FCC.

The competitive media landscape encourages localism

Our industry faces well-publicized financial, technological and competitive challenges. Great Eastern Radio, like other broadcasters in small to medium sized markets, provides significant local broadcast service without the benefit of the advertising revenues available to larger-market broadcasters with larger numbers of viewers. Competition from I-pods, satellite radio and new media represents growing pressure on stations' scarce resources, and Great Eastern Radio is no exception.

The level of competition in the broadcast industry, coupled with the broader and all-too-palpable economic downturn, impose significant competitive and economic pressure on broadcasters. While Docket 80-90 did not create many new radio stations in the major markets,

the proceeding did flood the smaller markets with new FM signals. In Hanover/Lebanon, New Hampshire for example, there were approximately 3 FM's serving the market in 1985. Today, there are over 9 FM's serving the same market, without the economic and population growth to support such a proliferation of stations. Technology has allowed Great Eastern Radio to continue to create great locally involved and locally programmed radio stations even in the face of smaller and smaller pieces of the advertising pie being garnered by each of their stations. Great Eastern Radio embraces local service as more than a licensee responsibility, but also as a unique competitive service that distinguishes its radio stations which other providers of audio service cannot match. Yet, as the Commission has heard but failed to adequately acknowledge in the NPRM, broadcasters in small to medium sized markets have often, as a result of financial hardship, been forced to curtail public-interest responsive programming such as news and public affairs. The imposition of new regulatory burdens and the financial costs associated therewith will have the contrarian result of reducing and not increasing public interest programming.

Despite these challenges, the Commission apparently intends to further constrain these resources by adopting rules with dubious benefits and unintended consequences. No matter how well-intentioned the Commission's efforts in this proceeding, certain of the proposals impose disproportionate burdens on broadcasters in small to medium sized markets, with little record evidence of sufficient corresponding benefits. The Commission must give due consideration to the pre-existing marketplace and competitive incentives that broadcasters already have to maximize public service. The NPRM does not reflect such consideration. Moreover, the Commission has not found the requisite nexus between the purported harms it identifies and the rules it plans to adopt to address those harms. For these reasons, Great Eastern Radio respectfully requests that the Commission refrain from adopting the proposals addressed below.

Reinstituting the “physical presence” rules would entail significant cost with little corresponding benefit.

The NPRM states that the Commission is considering “requiring that licensees maintain a physical presence at each radio broadcasting facility during all hours of operation.”³ This proposal is unnecessary. The proposal brings significant staffing costs for routine operations that could be consolidated and handled remotely. While the Commission apparently believes that “a requirement that all operations be attended may increase the likelihood that each broadcaster will be capable of relaying critical life-saving information to the public,”⁴ this assertion is speculative and not reflective of operational realities. Any broadcaster with a proper remote operation system in place can inform the public in the same manner as a staffed station, and the incremental benefit is minimal. By contrast, the staffing, electrical and other costs simply do not justify the expense in all but the most extreme circumstances. These additional costs mean that broadcasters will have to divert limited resources away from local service and local programming to maintain a base level of technical staff. The record does not support such a policy, and Great Eastern Radio urges the Commission to retain the existing rule. As a good analogy, it is like saying that a parent should be sitting next to a landline telephone 24 hours a day while their children are at school even though technology (cell phones) may allow the parent to leave their home to do other things. Technology has changed the ways we live our lives. We type on computers that check our spelling and grammar, we communicate with email and cell phones, we use Quicken to balance our checkbooks, we file our taxes with the IRS online, we do banking on with ATM machines and we have achieved tremendous productivity advances as a result. The broadcast world should not be held back from utilizing what has proven to be highly effective remote monitoring and station control technology.

³ *NPRM* at 16.

⁴ *Id.*

Resurrecting the restrictive pre-1987 main studio rule is unnecessary and unwise

The Commission has requested comment regarding whether “we should revert to our pre-1987 main studio rule in order to encourage broadcasters to produce locally originated programming.”⁵ Great Eastern Radio urges the Commission to retain its existing main studio rules.

In 1987 and 1998, the Commission reasonably and wisely adopted rules permitting broadcasters to locate their main studio at any location within the station’s principal community contour or within 25 miles of the reference coordinates of the center of its community of license. At the time, the Commission recognized the wisdom of these provisions, noting that it would provide resource-constrained broadcasters with a means to recognize operational efficiencies in consolidating main-studio operations. In fact, broadcasters in small to medium sized markets have been able to realize operational advantages.

The stated purpose of the main-studio rules was to facilitate community contact to the station “to voice suggestions or complaints,” yet there is no rational connection between this stated goal and constricting the main studio rule. Broadcaster’s contact information is available in numerous locations on the Internet, the FCC’s website and other sources. The Commission is requiring television broadcasters to make more information readily available to the public than ever before, as shown in the Enhanced Disclosure proceeding.⁶ Listeners both within – and without – a broadcaster’s service area soon will be able to obtain any broadcaster contact information they need by simply visiting a station’s website.

Specifically, many of the Docket 80-90 stations were licensed to very small communities that are adjacent to slightly larger communities. The current rules adequately address this issue

⁵ *NPRM* at 23.

⁶ See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations* (adopted Nov. 27, 2007).

by utilizing mileage requirements that are a world view of the reality of the geographic reach of stations outside of their communities of license. Stations main studios, given the current mileage requirement, are within a very close drive of the stations city of license if a listener should choose to visit.

The Commission should not adopt new rules mandating permanent community advisory boards.

The *NPRM* proposes to have licensees “convene a permanent advisory board made up of officials and other leaders from the service area of its broadcast station.”⁷ The Commission’s stated goal is to help “ensure that licensees regularly gather information from community representatives to help inform the station’s programming decisions.” The Commission fails to adequately justify this proposal, and offers only a tenuous nexus between the proposal and the goal. Accordingly, Great Eastern Radio urges the Commission to reject this proposal.

Great Eastern Radio has continually welcomed and solicited input from community leaders to help Great Eastern Radio ensure that its broadcasts represent responsive programming. This is not merely a matter of civic responsibility – it is also a competitive advantage that Great Eastern Radio and others offer over competing media services. Broadcasters embrace localism as more than a condition of their license, but as a means to serve their community with programming tailored to local interests. Some examples:

Specifically, Great Eastern owner Jeffrey Shapiro actually lives in the community in which he owns radio stations (Hanover/Lebanon, New Hampshire) and his partner, Courtney Galluzzo, lives in the Hillsboro/Concord, New Hampshire region where WTPL-FM is located. They both serve on boards of directors of many community organizations that end up receiving publicity for their events from the owners’ personal involvement. Great Eastern Radio is proud

⁷ *NPRM* at 14.

of the efforts of its member stations to learn about issues of importance to local communities. Nevertheless, Great Eastern Radio opposes the Commission's inflexible proposal to mandate permanent advisory boards. The Commission risks resuscitating its now-discredited ascertainment guidelines by, among other things, proposing to require licensees to convene permanent advisory boards. The Commission rightly rejected the ascertainment guidelines in 1981 and 1984, finding that market forces, the requirement to maintain issue-responsive programming and the petition-to-deny process, will ensure that broadcasters provide locally responsive programming. If any thing, these reasons apply more strongly today than in the 1980s due to the increased competition in the marketplace and the Commission's efforts in the Enhanced Disclosure proceeding to facilitate broader public scrutiny of broadcasters and compliance with localism obligations. The Commission should allow the market to function rather than ratcheting up still more regulatory costs that disproportionately affect local broadcasters in small to medium sized markets.

The Commission's proposal for mandatory advisory boards is ill-advised. It is arguable whether such boards are any more effective in addressing community concerns than other informal outreach methods, such as listener surveys, comment boxes, email campaigns, ad hoc efforts, website appeals and other methods. Broadcasters should be afforded the flexibility to tailor their approach to local circumstances, and the Commission should not impose a one-size-fits-all approach to establishing the selection and composition of such boards. Such regulations would not reflect individualized circumstances in local markets and would intrude needlessly into broadcaster's wide ranging discretion in how it chooses to fulfill its public-interest obligations. Determinations of "representative cross-sections" are inherently subjective and ill-defined; Great Eastern Radio doubts that the Commission can adopt a sustainable approach to

board composition that is not needlessly over- or under-inclusive based on local market circumstances. Finally, Great Eastern Radio notes that other Commission proposals are already poised to promote additional community involvement, and the need to impose additional regulation here is minimal. In fact, broadcasters have myriad marketplace incentives to provide local service, and advisory boards will be adopted in local markets best suited to promote that goal. For these reasons, Great Eastern Radio asks the Commission to continue to afford broadcasters the flexibility to gather information from community representatives via a variety of means. For this reason, the Commission should not mandate local advisory boards.

Conclusion

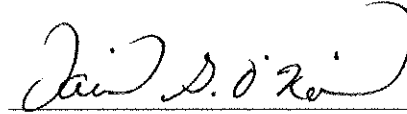
Great Eastern Radio applauds the Commission's examination of broadcasters and localism, but is concerned that certain proposals – described herein – present “solutions” in search of a problem. The NPRM grossly understates the burden associated with certain of its proposals and fails to articulate sufficient benefits to justify the burden. The Commission seeks dramatic increases in local access, local service and local cost, but at risk of throwing out the baby with the bathwater. Great Eastern Radio urges the Commission to take a measured, incremental approach to promoting localism. Great Eastern Radio would be forced to provide even less service to its communities if burdened with the incremental costs that these new rules would bring about. On the other hand, there would be no incremental gain to the community from these new rules. The end result should the Commission adopt the new regulations is a diminution of service loss with no perceived or actual gain.

Great Eastern Radio's President/CEO, Jeffrey Shapiro, would be happy to visit with the Commission, at his sole cost, to discuss first hand these issues and their real world importance to the survival of a small market radio company like Great Eastern Radio LLC.

Respectfully submitted,

Great Eastern Radio, LLC

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April 28, 2008